

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ALGIERS RAMON SANDERS GARCIA,
Plaintiff,

v.

JOHN DOE #1, D.E.A.; JOHN DOE #2,
D.E.A.,
Defendants.
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ORDER OF DISMISSAL

22 CV 2599 (VB)

Copies Mailed/Faxed
Chambers of Vincent L. Briccetti

By Order dated November 4, 2022 (Doc. #9), the Court, among other things, instructed the United States Attorney's Office ("USAO") to identify the two John Doe defendants who were involved in the arrest of plaintiff on November 29, 2021, and directed plaintiff to file an amended complaint within thirty days of receiving this information naming the two John Doe defendants. On December 28, 2022, the USAO identified the two DEA agents who were involved in plaintiff's arrest. (Doc. #11). The same day, the Court entered an Order reminding plaintiff that his deadline to file an amended complaint naming these defendants was January 27, 2023, and warning defendant that if he failed to do so, the Court might dismiss this action without prejudice for failure to prosecute and to comply with Court orders, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. (Doc. #12).

Plaintiff failed to file an amended complaint by January 27, 2023. Rather than dismiss the case, on February 7, 2023, the Court sua sponte extended plaintiff's time to file an amended complaint to March 9, 2023. The Court warned plaintiff in bold typeface that if he failed to file an amended complaint by March 9, 2023, the action might be dismissed under Rule 41(b), and that, absent a showing of good cause for the delay, no further extensions would be granted. (Doc. #13).

Despite the warnings in the Court's December 28, 2022, and February 7, 2023, Orders, plaintiff has not filed an amended complaint or sought an extension of time in which to do so. Moreover, each Order was mailed to plaintiff at the address on the docket, and the Court has not received any return mail or other indication that the plaintiff did not receive these Orders. Thus, it appears plaintiff has abandoned this case.

Having considered all of the factors set forth in Baptiste v. Sommers, 768 F.3d 212, 216 (2d Cir. 2014), the Court dismisses this case without prejudice pursuant to Fed. R. Civ. P. 41(b).

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal. Cf. Coppedge v. United States, 369 U.S. 438, 444–45 (1962).

The Clerk is instructed to close this case.

Chambers will mail a copy of this Order to plaintiff at the address listed on the docket.

Dated: March 17, 2023
White Plains, NY

SO ORDERED:

A handwritten signature in black ink, appearing to read 'Vincent Briccetti', written over a horizontal line.

Vincent L. Briccetti
United States District Judge